

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BRIAN DEXTER,

Plaintiff,

V.

LINH K. TRAN and JOHN DOE  
TRAN, wife and husband; and NOB,  
LLC, a Washington Limited  
Liability Corporation,

## Defendants.

NO. CV-08-307-RHW

# ORDER DENYING DEFENDANTS' CROSS- MOTION FOR SUMMARY JUDGMENT

Before the Court is Defendants' Cross-Motion for Summary Judgment (Ct. Rec. 34). The motion was heard without oral argument.

In their answer, Defendants asserted a counterclaim for attorneys' fees and costs pursuant to 15 U.S.C. § 1692. In its opposition to Plaintiff's Motion for Summary Judgment, Defendants asserted a cross-motion for summary judgment, relying on the Reaffirmation Agreement signed by Plaintiff that authorizes a recovery of attorneys' fees and costs.

15 U.S.C. § 1692(k)(a)(3) provides:

(a) Amount of damages

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of—

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

1       The Court does not find that the above-captioned action was brought in bad  
2       faith or for the purpose of harassment. Moreover, the Court does not find that  
3       Defendants are entitled to recover their attorney fees and costs by virtue of the  
4       parties' Reaffirmation Agreement. Plaintiff brought this action under the Fair Debt  
5       Collections Practice Act, and did not allege a breach of the reaffirmation  
6       agreement.

7       Accordingly, **IT IS HEREBY ORDERED:**

8       1. Defendants' Cross-Motion for Summary Judgment (Ct. Rec. 34) is  
9       **DENIED.**

10       **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
11       Order and forward copies to counsel.

12       **DATED** this 22<sup>nd</sup> day of December, 2009.

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15       s/Robert H. Whaley  
16       ROBERT H. WHALEY  
17       United States District Judge

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28       **ORDER DENYING DEFENDANTS' CROSS-MOTION FOR SUMMARY  
JUDGMENT ~ 2**